

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA, et al.

Plaintiffs,

vs.

REALPAGE, INC., et al.

Defendants.

No. 1:24-cv-00710-WLO-JLW

UNOPPOSED MOTION TO PUBLISH TUNNEY ACT COMMENTS ELECTRONICALLY

The United States asks that the Court excuse costly Federal Register publication of the voluminous public comments submitted regarding the proposed Final Judgment between the United States and Greystar Management Services, LLC (Dkt. No. 152-1) and the Competitive Impact Statement (Dkt. No. 155), and instead authorize electronic publication for good cause, pursuant to 15 U.S.C. § 16(d). The United States has conferred with Greystar Management Services, LLC and this motion is unopposed. Attached as "Exhibit 1" is a Proposed Order permitting the United States to satisfy its statutory publication obligations by posting public comments on the Antitrust Division's website, in tandem with Federal Register publication of the relevant internet address where the comments can be found.

The United States, along with co-plaintiff States, filed its complaint in this case on August 23, 2024, and amended its complaint on January 7, 2025. On August 8, 2025, the United States filed the proposed Final Judgment for Greystar Management Services, LLC, which if entered will resolve the United States' claims against Greystar. As required by the Antitrust Procedures and Penalties Act, 15 U.S.C. § (b)-(h) (the "Tunney Act"), the United States caused notices to be published in the Federal Register, the Washington Post and the Greensboro News and Record, providing instructions for public comment on the proposed Final Judgment. The United States received five comments from three individuals during the public comment period, which closed on November 7, 2025.

As required by the Tunney Act, the United States will file with the Court and serve on all parties to this action its Response to Comments, which will include copies of all comments submitted, as an attachment.¹ The Response to Comments will be published in the Federal Register. The Tunney Act also requires that the comments themselves be made available to the public, which, before the Tunney Act

¹ Given the number of pages received and ECF restrictions on attachment file-size, the United States seeks to file and serve comments via digital files submitted on physical media.

was amended in 2004, the United States was required to accomplish through publication in the Federal Register.

However, the Tunney Act now authorizes the United States to publish comments by "alternative means" pursuant to 15 U.S.C. § 16(d) when the costs of Federal Register publication exceed the benefits thereof. In this case, the United States has received over 150 pages of comments at a rate of \$399 per page² generating publication costs of more than \$59,850.

Further, publication in the Federal Register does not confer any significant public interest benefit that cannot be better served by electronic publication. Indeed, at the time of passage of the 2004 amendment authorizing alternative publication, Senator Leahy of the Judiciary Committee noted that Federal Register publication can offer "little benefit, because those materials are, if anything, more accessible on the Web than in a library." 150 Cong. Rec. 6,328 (2004). Likewise, Senator Kohl opined that alternatives such as "posting the proposed decrees electronically, [] are sufficient to inform interested

² See Government Printing Office Circular Letter No. 1158 (June 18, 2025), available at: <https://www.gpo.gov/how-to-work-with-us/agency/circular-letters/new-federal-register-publishing-rate-june-2025>.

persons of the proposed consent decree." 150 Cong. Rec. 6,332 (2004).

Recognizing the benefits of electronic publication, other courts have excused Federal Register publication of Tunney Act comments and/or attachments in favor of electronic publication in several recent cases. See United States v. Cargill Meat Solutions Corp., et al., No. 1:22-cv-01821-SAG (D. Md. Jan. 30, 2023) (attached as Exhibit 2); United States, et al. v. CVS Health Corporation, et al., No. 1:18-cv-02340-RJL (D.D.C. Feb. 9, 2019) (minute order, attached as Exhibit 3); United States v. Bayer AG, et al., No. 1:18-cv-01241-JEB (D.D.C. Jan. 2, 2019) (attached as Exhibit 4).

Finally, electronic publication also will ensure timely filing of the United States' motion for entry of the proposed Final Judgment. Prior to filing its motion for entry, the United States must satisfy all of the Tunney Act procedures, including making comments available to the public.

Accordingly, the United States asks that the Court excuse publication of the public comments in the Federal Register and, instead, allow comments to be posted on the Antitrust Division website in conjunction with Federal

Register publication of the internet address at which
comments can be read and downloaded.

Respectfully Submitted,

FOR PLAINTIFF
UNITED STATES OF AMERICA

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